

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

J. EZRA MERKIN, GABRIEL CAPITAL, L.P.,
ARIEL FUND LTD., ASCOT PARTNERS, L.P.,
ASCOT FUND LTD., GABRIEL CAPITAL
CORPORATION,

Defendants.

SIPA LIQUIDATION

No. 08-01789 (SMB)

(Substantively Consolidated)

Adv. Pro. No. 09-01182 (SMB)

NINTH AMENDED CASE MANAGEMENT PLAN

Irving Picard, Esq., as trustee (the “Trustee”) for the liquidation of the business of Bernard L. Madoff Investment Securities, LLC, and Defendants J. Ezra Merkin, Gabriel Capital, L.P., Ariel Fund Ltd., Ascot Partners, L.P., Ascot Fund Ltd., and Gabriel Capital Corporation (“Defendants”) (collectively, the “Parties”) seek to modify the October 30, 2014 Eighth Amended Case Management Plan [ECF No. 245], pursuant to Fed. Civ. R. P. 16(a)(4), as incorporated into Bank. R. 7016.

In order to complete expert discovery, the Parties respectfully request that the Eighth Amended Case Management Plan [ECF No. 245] be modified as follows:

1. Motion to Dismiss: This Court entered a Memorandum Decision Granting in Part and Denying in Part Defendants’ Motions to Dismiss on August 12, 2014 [ECF No. 212] (the “Decision”). This Court entered errata orders with respect to the Decision on August 14, 2014

[ECF No. 213] and August 20, 2014 [ECF No. 215]. On October 2, 2014, the Court heard oral argument on the Trustee's Motion to Direct Entry of Final Judgment under Federal Rule of Civil Procedure 54(b). On December 10, 2014, the Court denied the Trustee's motion and issued its Order Granting In Part and Denying In Part Defendants' Motions to Dismiss the Third Amended Complaint. (ECF No. 251-252).

2. Discovery Cut-off: All document discovery, fact depositions, and all fact discovery, except by agreement of the Parties, was completed by January 30, 2015.

3. Experts: Every party-proponent that intends to offer expert testimony in respect of such claim was required to make the disclosures required by Fed. R. Civ. P. 26(a)(2) on or before March 20, 2015. Every party-opponent of such claim that intends to offer expert testimony in opposition to such claim must make the disclosures required by Fed. R. Civ. P. 26(a)(2) on or before May 15, 2015. No expert testimony (whether designated as "rebuttal" or otherwise) will be permitted by other experts or beyond the scope of the opinion covered by the aforesaid disclosures except upon prior express permission of the Court, application for which must be made no later than 10 days after the date specified in the immediately preceding sentence. All experts may be deposed, but such depositions must occur on or before July 17, 2015. The foregoing restriction shall not include amendments to expert reports in light of new evidence as required by Fed. R. Civ. P. 26.

4. Next Conference: The parties shall next appear before the Court on May 7, 2015 at 10:30 a.m.

5. Settlement: The parties have engaged in some settlement discussions, and will notify the Court if they believe a settlement conference would be productive.

6. Summary Judgment Briefing: Any party desiring to make a motion for summary judgment must comply with Local Bankr. R. 7056-1(a) by August 14, 2015.

SO ORDERED.

Dated: April 23, 2015
New York, NY

/s/ STUART M. BERNSTEIN
HONORABLE STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE